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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MARTIN & FERRARO, LLP 1557 LAKE O'PINES STREET, NE HARTVILLE, OH 44632			EXAMINER DURAN, ARTHUR D	
			ART UNIT 3622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/605,695

Applicant(s)

SCHEIN, STEVEN MICHAEL

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-15, 17-20, 22, 23, 27-31 and 38-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-15, 17-20, 22, 23, 27-31 and 38-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-7, 9-15, 17-20, 22, 23, 27-31, and 38-43 have been examined.

Response to Amendment

2. The Amendment filed on 7/13/07 is insufficient to overcome the prior rejection.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/13/07 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-15, 17-20, 22, 23, 27-31, and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter (5,892,900) in view of Gerace (5,848,396).

As per independent claim 1, Ginter (col. 325,11. 1-67) discloses:

"target content object. . . . "

Ginter (col. 197,11. 42-65) discloses: "This mechanism could be used... to distribute customized versions of a piece of content and control access to the various versions in the content object. . . . "

Ginter (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; and col. 269,11. 1-67) discloses: "smart object agents. . . . "

Ginter (col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35) discloses: "collect data on end user usage activities. . . . "

Ginter (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 115) shows "media content. . . . "

Ginter (the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) shows the elements and limitations of claim 1; however, Ginter lacks an explicit recitation of "a data reporter for collecting user activity information representing

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exercise of a first media object by said at least one user. . . ." even though;

Ginter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11. 367; cot. 138,11. 1-67; cot. 301, 11. 65-67; and cot. 302,11. 1-15) discloses: "collect data on end user usage activities. . . ." In this case, the Examiner interprets the disclosure of Ginter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11.3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 1-15) i.e., "collect data on end user usage activities..... as showing "a data reporter for collecting user activity information representing exercise of a first media object by said at least one user. . . ."

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of inter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302, lt. 115) would have been selected in accordance with "a data reporter for collecting user activity information representing exercise of a first media object by said at least one

user. . . ." because such disclosure would have provided a method enabling 'participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables

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these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements," (See 'n er col. 8, 11. 40-49).

As per dependent claims 2-8, inter shows the method of claim 1 and subsequent base claims depending from claim 1. Ginter (col. 137,11. 3-67; col. 138,11. 1-67; cot. 301,11. 65-67; cot. 302,11. 1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot. 138,11. 367; cot. 156,11. 25-47; and cot. 265,11. 28-67; col. 266,11. 1-67; cot. 267,11. 1-67; cot. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-35 and whole document) shows the elements and limitations of claims 2-8.

Ginter lacks explicit recitation of the elements and limitations of claims 2-8, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of inter (cot. 137,11. 3-67; cot. 138,11. 1-67; col. 301, 11. 65-67; cot. 302,11. 1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; col. 138,11. 3-67; cot. 156,11. 25-47; and cot. 265,11. 28-67; cot. 266,11. 167; cot. 267,11. 1-67; cot. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11. 41-67; and col. 174,11. 22-35 and whole document) would have been selected in accordance with the elements and limitations of claims 2-8 because such disclosure would have provided a method enabling "*participants in a*

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business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. " (See 'ter cot. 8,11. 40-49).

Independent claim 9 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 10-16, Ginter shows the method of claim 9 and subsequent base claims depending from claim 9.

Ginter (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; cot. 302,11. 1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot. 138,11. 367; cot. 156,11. 25-47; and cot. 265,11. 28-67; cot. 266,11. 1-67; cot. 267,11. 1-67; cot. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11.-41-67; and cot. 174,11. 22-35 and whole document) shows the elements and limitations of claims 10-16.

Ginter lacks explicit recitation of the elements and limitations of claims 10-16, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of Ginter (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; col. 302,11. 1-15; the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38, 11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266, 11. 167; col. 267,11. 1-67; col. 268,11. 1-67; col.

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269,11. 1-67; Col. 152, 11. 28-39; col. 154, lt. 41-67; and col. 174,11. 22-35 and whole document) would have been selected in accordance with the elements and limitations of claims 10-16 because such disclosure would have provided a method enabling *"participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. "* (See Ginter col. 8,11. 40-49).

As per independent claim 17, Ginter (col. 325,11. 1-67) discloses: *"target content object.....Ginter (col. 50,11. 50-52) discloses: "FIG. 15A is an example of a channel header and channel detail records. . . . "*

Ginter (col. 109, 11. 42-50; and col. 111, 11. 16-40) discloses: *"relevant headers, content tags. . . . "*

Ginter (col. 311, 11. 30-60) discloses: *"account profile that may relate to such content to the repository. . . . "*

Ginter (col. 197,11. 42-65) discloses: *"This mechanism could be used ... to distribute customized versions of a piece of content and control access to the various versions in the content object.*

Ginter (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; and col. 269,11.1-67) discloses: "smart object agents. . . . "

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Ginter (col. 152, 11. 28-39; col. 154, 11. 41-67; and col. 174, 11. 22-35) discloses: *"collect data on end user usage activities. . . . "*

Ginter (col. 137, 11. 3-67; col. 138, 11. 1-67; col. 301, 11. 65-67; and col. 302, 11. 115) shows "media content.....

Ginter (the ABSTRACT; col. 325, 11. 1-67; col. 197, 11. 42-65; col. 38, 11. 35-67; col. 138, 11. 3-67; col. 156, 11. 25-47; and col. 265, 11. 28-67; col. 266, 11. 1-67; col. 267, 11. 1-67; col. 268, 11. 1-67; col. 269, 11. 1-67; col. 152, 11. 28-39; col. 154, 11. 41-67; and col. 174, 11. 22-35 and whole document) shows the elements and limitations of claim 17; however, Ginter lacks an explicit recitation of "a header so that a media object profile is created for each media object.....even though;

Ginter (col. 109, 11. 42-50; col. 111, 11. 16-40; col. 311, 11. 30-60; col. 137, 11. 3-67; col. 138, 11. 1-67; col. 301, 11. 65-67; and col. 302, 11. 1-15) suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of *inter* (col. 109, 11. 42-50; col. 111, 11. 16-40; col. 311, 11. 30-60; col. 137, 11. 3-67; col. 138, 11. 1-67; col. 301, 11. 65-67; and col. 302, 11. 115) would have been selected in accordance with "a header so that a media object profile is created for each media object. . . ." because such disclosure would have provided a method enabling *participants in a business value chain model to create an electronic version of traditional business agreement terms and*

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conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. " (See inter col. 8, 11. 40-49).

As per dependent claims 18-21, inter shows the method of claim 17 and subsequent base claims depending from claim 17.

Ginter lacks explicit recitation of the elements and limitations of claims 18-21, even though inter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of inter (col. 137, 11. 3-67; col. 138, 11. 1-67; col. 301, 11. 65-67; col. 302, 11. 1-15; the ABSTRACT; col. 325, 11. 1-67; col. 197, 11. 42-65; col. 38, 11. 35-67; col. 138, 11. 3-67; col. 156, 11. 25-47; and col. 265, 11. 28-67; col. 266, 11. 167; col. 267, 11. 1-67; col. 268, 11. 1-67; col. 269, 11. 1-67; col. 152, 11. 28-39; col. 154, 11. 41-67; and col. 174, 11. 22-35 and whole document) would have been selected in accordance with the elements and limitations of claims 18-21 because such disclosure would have provided a method enabling 'participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. " (See Gin col. 8, 11. 4049).

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As per independent claim 22, inter (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 167; and col. 269,11. 1-67) discloses:

"smart object agents. . . ."

Ginter (col. 325,11. 1-67) discloses: "target content object. . . ."

Ginter (col. 197,11. 42-65) discloses: "This mechanism could be used ... to distribute customized versions of a piece of content and control access to the various versions in the content object....."

Ginter (col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35) discloses: "collect data on end user usage activities. . . ."

Ginter (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 115) shows "media content. . . ."

Ginter (col. 311, 11. 30-60) discloses: "account profile that may relate to such content to the repository.....Ginter (the ABSTRACT; col. 311,11. 30-60; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) shows the elements and limitations of claim 22; however, Ginter lacks an explicit recitation of "a media object profile portion containing information gathered

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from a plurality of users representing exercise of said media object

by said plurality of users. . . ." even though;

Ginter (col. 109,11. 42-50; col. 111,11. 16-40; col. 311,11. 30-60; col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 1-15) suggests same. . It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of inter (col. 109,11. 42-50; col. 111,11. 16-40; col. 311, 11. 30-60; col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 115) would have been selected in accordance with "a media object profile portion containing information gathered from a plurality of users representing exercise of said media object by said plurality of users. . . ." because such disclosure would have provided a method enabling *"participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. "* (See inter col. 8,11. 40-49).

As per dependent claims 23-24, Ginter shows the method of claim 22 and subsequent base claims depending from claim 22.

Ginter lacks explicit recitation of the elements and limitations of claims 23-24, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of i to (col. 137, ll. 3-67; col. 138, ll. 1-67; col. 301, 11. 65-67; col. 302,11. 1-15; the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-

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65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 167; col. 267,11. 1-67; col. 268, 11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) would have been selected in accordance with the elements and limitations of claims 23-24 because such disclosure would have provided a method enabling *participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements.* " (See inter col. 8,11. 4049).

As per independent claim 25, in r (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268, 11. 1-67; and col. 269,11. 1-67) discloses: "smart object agents. . . . "

Ginter (col. 325, 11. 1-67) discloses: "target content object.

Ginter (col. 50,11. 50-52) discloses: "FIG. 15A is an example of a channel header and channel detail records.....

Ginter (col. 109,11. 42-50; and col. 111, 11. 16-40) discloses: "relevant headers, content tags. . . . "

Ginter (col. 311, 11. 30-60) discloses: "account profile that may relate to such content to the repository. . . . "

Ginter (col. 197,11. 42-65) discloses: "This mechanism could be used... to distribute customized versions of a piece of content and control access to the various versions in the content object. . . . "

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Ginter (col. 152, 11. 28-39; col. 154, 11. 41-67; and col. 174, 11. 22-35)

discloses: "collect data on end user usage activities....."

Ginter (col. 137, 11. 3-67; col. 138, 11. 1-67; col. 301, 11. 65-67; and col. 302, 11. 115) shows "media content. . . ."

As per independent claim 27, in e (col. 325, 11. 1-67) discloses:
"target content object. . . ."

Ginter (col. 197, 11. 42-65) discloses: *"This mechanism could be used ... to distribute customized versions of a piece of content and control access to the various versions in the content object. . . ."*

Ginter (col. 38, 11. 35-67; col. 138, 11. 3-67; col. 156, 11. 25-47; and col. 265, 11. 28-67; col. 266, 11. 1-67; col. 267, 11. 1-67; col. 268, 11. 1-67; and col. 269, 11. 1-67) discloses: "smart object agents. . . ."

Ginter (col. 152, 11. 28-39; col. 154, 11. 41-67; and col. 174, 11. 22-35) discloses: "collect data on end user usage activities. . . ."

Ginter (col. 137, 11. 3-67; col. 138, 11. 1-67; col. 301, 11. 65-67; and col. 302, 11. 115) shows "media content....."

Ginter (the ABSTRACT; col. 325, 11. 1-67; col. 197, 11. 42-65; col. 38, 11. 35-67; col. 138, 11. 3-67; col. 156, 11. 25-47; and col. 265, 11. 28-67; col. 266, 11. 1-67; col. 267, 11. 1-67; col. 268, 11. 1-67; col. 269, 11. 1-67; col. 152, 11. 28-39; col. 154, 11. 41-67; and col. 174, 11. 22-35 and whole document) shows the elements and limitations of claim 27; however,

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Ginter lacks an explicit recitation of "collecting information form a plurality of users related to the viewing of at least one media object. . . ." even though;

Ginter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11. 367; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 1-15) discloses: "collect data on end user usage activities. . . ." In this case, the Examiner interprets the disclosure of

in e (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 1-15) i.e., "collect data on end user *usage activities..... as* showing "collecting information form a plurality of users related to the viewing of at least one media object. . . ."

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of inter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11.3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 115) would have been selected in accordance with "collecting information form a plurality of users related to the viewing of at least one media object. . . ." because such disclosure would have provided a method enabling *participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. "* (See Ginter cot. 8,11. 4049).

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As per dependent claim 28, Ginter shows the method of claim 27. Ginter lacks explicit recitation of the elements and limitations of claim 27, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of Ginter (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301, 11. 65-67; cot. 302,11. 1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot. 138,11. 3-67; cot. 156,11. 25-47; and cot. 265,11. 28-67; cot. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-35 and whole document) would have been selected in accordance with the elements and limitations of claim 28 because such disclosure would have provided a method enabling *"participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements."* (See Ginter cot. 8,11. 40-49).

As per independent claim 29, Ginter (cot. 325,11. 1-67) discloses: *"target content object....."*

Ginter (col. 311, 11. 30-60) discloses: *"account profile that may relate to such content to the repository. . . ."*

Ginter (col. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-35) discloses: *"collect data on end user usage activities. . . ."*

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Ginter (cot. 18,11. 38-67; cot. 19,11. 10; col. 25,11. 1-35; cot. 37,11. 15-67; col. 38, 11. 1-35; cot. 307,11. 5-30; and col. 338,11. 10-67) shows "collecting information from users of Internet links; correlating the collected information with at least one Internet link; creating an Internet link profile based on the correlated information; and selecting at least one Internet link based on the profile of a user requested link....."

Ginter (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 115) shows "media content...."

Ginter (the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267, 11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) shows the elements and limitations of claim 29; however,

Ginter lacks an explicit recitation of "collecting information from users of Internet links; correlating the collected information with at least one Internet link; creating an Internet link profile based on the correlated information; and selecting at least one Internet link based on the profile of a user requested link.....even though;

Ginter (col. 18,11. 38-67; col. 19, 11. 10; col. 25,11. 1-35; cot. 37, 11. 15-67; col. 38,11. 1-35; col. 307,11. 5-30; and col. 338,11. 10-67; the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265, 11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document)

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suggests same. It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of Ginter (col. 18,11. 38-67; col. 19,11. 10; col. 25,11. 1-35; col. 37,11. 15-67; col. 38,11. 1-35; col. 307, 11. 5-30; and col. 338,11. 10-67; the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11.35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) would have been selected in accordance with "collecting information from users of Internet links; correlating the collected information with at least one Internet link; creating an Internet link profile based on the correlated information; and selecting at least one Internet link based on the profile of a user requested link. . . ." because such disclosure would have provided a method enabling *participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements.* " (See inter col. 8,11. 40-49).

As per dependent claim 30, Ginter shows the method of claim 29.

Ginter lacks explicit recitation of the elements and limitations of claim 29, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of inte (col. 18,11. 38-67; col. 19,11. 10; col. 25,11. 135; col. 37,11. 15-67; col. 38,11. 1-35; col. 307,11. 5-30; and col. 338,11. 10-67) would have been selected in accordance with the

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elements and limitations of claim 30 because such disclosure would have provided a method enabling *'participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. "* (See Ginter col. 8,11. 40-49).

As per dependent claim 31, Ginter shows the method of claim 29.

Ginter lacks explicit recitation of the elements and limitations of claim 29, even though Ginter suggests the same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of Ginter (cot. 18,11. 38-67; cot. 19,11. 10; cot. 25,11. 135; cot. 37,11. 15-67; cot. 38,11. 1-35; col. 307,11. 5-30; and cot. 338,11. 10-67) would have been selected in accordance with the elements and limitations of claim 31 because such disclosure would have provided a method enabling *'participants in a business value chain model to create an electronic version of traditional business agreement terms and conditions and further enables these participants to shape and evolve their electronic commerce models as they believe appropriate to their business requirements. "* (See Ginter col. 8,11. 40-49).

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Additionally, Ginter discloses utilization of multimedia objects, audio, audio-visual, video, e-commerce:

“(73) Information distributed using VDE may take many forms. It may, for example, be "distributed" for use on an individual's own computer, that is the present invention can be used to provide security for locally stored data. Alternatively, VDE may be used with information that is dispersed by authors and/or publishers to one or more recipients. This information may take many forms including: movies, audio recordings, games, electronic catalog shopping, multimedia, training materials, E-mail and personal documents, object oriented libraries, software programming resources, and reference/record keeping information resources (such as business, medical, legal, scientific, governmental, and consumer databases)” (col 7, lines 45-57).

Ginter also discloses utilizing the Internet and links:

“(570) If External Services Manager 772 is used to access VDE objects, many different techniques are possible. For example, the VDE objects may be formatted for use with the World Wide Web protocols (HTML, HTTP, and URL) by including relevant headers, content tags, host ID to URL conversion (e.g., using Name Services Manager 752) and an HTTP-aware instance of Services Transport Layer 786” (col 109, lines 41-50).

Also, Ginter discloses utilizing the Internet, sending users content, profiling users, tracking user activity, keeping a user activity history, and advertising (the above citations from the Ginter reference; the citations from the preceding rejection referring to the Ginter reference, throughout the Ginter reference; and below):

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“(10) The present invention can materially enhance the revenue of content providers, lower the distribution costs and the costs for content, better support advertising and usage information gathering, and better satisfy the needs of electronic information users. These improvements can lead to a significant increase in the amount and variety of electronic information and the methods by which such information is distributed” (col 1, line 65-col 2, line 9).

Ginter does not explicitly disclose targeting users.

Gerace discloses utilizing multimedia objects, audio, audio-visual, video, e-commerce, the Internet, website, links, and advertising (col 1, lines 20-45; col 3, lines 5-10; col 2, lines 35-42).

Gerace further discloses identifying specific media objects based on user activity with that same object or another object and targeting the specific media object to the user (col 2, lines 1-60; col 6, line 57-col 7, line 25; col 20, lines 9-19).

Gerace further discloses a "smart media object" having a profile portion containing information gathered from a plurality of users representing exercise of the media object portion by the plurality of users (col 20, lines 9-20; col 18, lines 10-26; col 33, lines 55-col 34, line 25).

Gerace further discloses a method of targeting media objects to a user on-line wherein at least one Internet link based on the profile of a user requested link is delivered to the user with at least one additional link having a link profile matching at least one aspect of the profile of the requested link (col 16, lines 36-55; col 14, lines 24-35).

Gerace further discloses a "hidden search engine" that creates a profile for Internet links and selects at least one Internet link based on at least one aspect of each link profile for delivery

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with a user requested link to the user (col 16, lines 36-55; col 14, lines 24-35). Notice that in this citation from Gerace that Gerace presents specific banner advertising based on information known about that banner advertising and a determination as to how well suited that banner advertising is for presenting at a specific time or situation. Also, notice that the appropriateness of presenting the advertising is determined based on what is known about the advertising compared with a combination of information known about that user, the current information on display to the user, and the current information requested by the user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gerace's further features on tracking user responses to content and targeting a user to Ginter's presenting a user content and profiling a user. One would have been motivated to do this in order to better present a user with information of interest.

Additionally, Ginter discloses advertising, Internet advertising, maximizing advertising revenues, delivering preferred content to a user, and profiling a user (below Ginter citations and throughout the Ginter reference):

"The present invention can materially enhance the revenue of content providers, lower the distribution costs and the costs for content, better support advertising and usage information gathering, and better satisfy the needs of electronic information users. These improvements can lead to a significant increase in the amount and variety of electronic information and the methods by which such information is distributed (col 1, line 65-col 2, line 9);

Frequently, for a VDE application for a given content model (such as distribution of entertainment on CD-ROM, content delivery from an Internet repository, or electronic catalog

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shopping and advertising, or some combination of the above) participants would be able to securely select from amongst available, alternative control methods and apply related parameter data, wherein such selection of control method and/or submission of data would constitute their "contribution" of control information (col 18, lines 55-65).

Reporting of usage information and user requests can be used for supporting electronic currency, billing, payment and credit related activities, and/or for user profile analysis and/or broader market survey analysis and marketing (consolidated) list generation or other information derived, at least in part, from said usage information. this information can be provided to content providers or other parties, through secure, authenticated encrypted communication to the VDE installation secure subsystems" (col 36, lines 26-38).

Gerace discloses Internet advertising, maximizing advertising revenue, delivering content and advertising of interest to the user, and targeting the user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gerace's further features on tracking user responses to content and targeting a user to Ginter's presenting a user content and profiling a user. One would have been motivated to do this in order to better present a user with information of interest.

Additionally, Gerace discloses identifying specific media objects based on user activity with that same object or another object and targeting the specific media object to the user (see the above rejection and Gerace at: Fig. 2; Fig. 3a; Fig. 3f; Fig. 3g; col 5, lines 15-25; col 20, lines 9-20; col 6, line 57-col 7, line 45; col 33, line 35-col 34, line 27).

Gerace further discloses profiles and classifications for content objects (col 3, lines 5-10).

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Gerace further discloses matching content object profiles relative to characteristics of requested user information and also matching secondary or additional content objects relative to other content objects presented on a page or requested by a user (col 16, lines 36-55). Notice in this citation that Gerace discloses delivering content objects based upon the requested type of information the user has entered. Also, notice in this citation that Gerace discloses delivering advertisements or second media objects (“ . . . return appropriate advertisements. . . ” from col 16, lines 36-55) that are relevant to the first media object that the user has requested (which in this case is information on Detroit).

Additionally, Gerace discloses gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile:

“(87) To ensure that sponsors achieve the optimal result from the ads they place, program 31 combines regression analysis with the above weighting technique to achieve real-time, automatic optimization as discussed previously. Under this auto-targeting system, an ad package is shown to general users. After a large number (e.g., 10,000) hits, program 31 runs a regression on a subject Ad Package Object 33b to see what characteristics are important, and who (type of user profile) the ad appeals to most. Program 31 then automatically enters weighting information based on that regression to create a targeted system and runs the advertisement (Ad Package Object 33b) again in front of this new targeted group. Program 31 then runs a regression every 10,000 hits, for example, including a group of 500 general people as a control, and adjusts the weighting. This continues until the Ad Package is exhausted (i.e., the number of hits and click throughs are achieved)” (col 18, lines 10-26);

(90) In response to the sponsor's 33 request for (i.e., selection of) a particular report, main routine 39 calls reporting subroutine 41 which queries Sponsor Object 33a, Ad Package Object 33b, Ad Series Objects 33c and Ads Objects 33d of the sponsor for details. For example, demographic elements, number of click throughs purchased, number achieved to date, number of hits, and time remaining in an advertisement are retrieved. Program 31 then checks the usage logs and retrieves the profile of users who selected the sponsor's advertisement, using the User Objects 37a. The program 31 then generates a

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report using this data and uses standard statistical regression techniques to find correlation between success and different demographic and/or usage information, and reports those as well. For example, a report comprises several defined elements, including overall success of the advertisement, breakdown by requested demographic elements, comparison of target market with control group, number of click through requested versus number achieved to date, as well as the time remaining in an advertisement. Finally, program 31 completes a regression analysis using data stored in Ad Package Objects 33b and User Objects 37, and suggests other demographic groups which a sponsor might want to consider for a subsequent ad” (col 18, line 50-col 19, line 5).

Gerace further discloses gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile:

“(14) In addition, for each advertisement, advertisement module 75 (and/or user profiling member 73) records (a) the number of times and/or number of users to whom the advertisement has been displayed, (b) the number of times/users who have requested more information (via a click of a mouse on a corresponding menu selection) regarding the advertisement, and when possible (c) the number of purchases obtained through program 31's display of the advertisement. As such, advertisement module 75 holds performance data for each advertisement, and hence enables program controller 79 to provide performance reports to sponsors who log on to program 31. Various regression techniques and the like are used in the performance reports in a manner consistent with the state of the art” (col 5, lines 25-40).

Gerace also discloses these features when discussing reporting (col 33, line 55-col 34, line 23). And, notice that for an individual ad package that Gerace can analyze the success of the ad for the demographic profile requested and/or also for a control group (col 33, line 55-65). Hence, Gerace is gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile.

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Gerace further discloses gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile (claim 9; claim 13; col 12, line 55-col 13, lines 33).

Notice in these citations preceding that the particular ad or ad package can be tracked for how it is responded to. Hence, Gerace discloses a media object profile or gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile.

Hence, the combination of the prior art renders obvious the features of the Applicant's claims.

Additionally, Gerace further renders obvious the following features of the independent claims: said media object profile of user activity/content use information not including any attribute of said users (Gerace, Appendix IV, col 33, lines 33-61; col 2, lines 37-42). Also, please see the Response to Arguments below and MPEP 2173.05(i) and MPEP 2144.04.II.A.

Claims 38-43: Gerace further renders obvious a media object profile of user activity/content use information where said content use information does not include any attribute of said users (Gerace, Appendix IV, col 33, lines 33-61; col 2, lines 37-42). Also, please see the Response to Arguments below and MPEP 2173.05(i) and MPEP 2144.04.II.A.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are not found persuasive.

On page 8 of the Applicant's Remarks dated 7/13/2007, Applicant states:

“Applicant amended independent claims 1, 9, 17, 27, and 29 to recite a system and a method for targeting media objects to a plurality of users that includes a media object profile, “said media object profile not including any attribute of said users.” Applicant amended independent claim 22 to recite a smart media object including a media object profile portion containing content use information, “said content use information not including any attribute of said users.” Ginter and Gerace, taken alone or when properly combined, do not disclose or suggest such systems and methods.”

Hence, Applicant has added the features of, “said media object profile not including any attribute of said users” to the independent claims.

And, Applicant has added dependent Claims 38-43, “wherein said content use information does not include any attribute of said users”.

However, Examiner notes that it is the Applicant’s claims as stated in the Applicant’s claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

And, Examiner notes that much of Applicant’s Specification discloses utilizing user profile or demographic information for targeting purposes (Applicant’s Specification, Figure 2; page 7; pages 9-11). And, Applicant’s Figure 3 discloses utilizing “user activity” for targeting purposes. And, Examiner notes that Applicant’s page 4 states that user activity can be described as, “User activity information” may include information indicating that a piece of media is

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exercised (e.g., purchases, viewed, interacted with) by a user, and is captured when the user exercises the media.” And, Examiner notes that pages 8 and 9 disclose that user activity information can also include information on which demographic groups of users interact with the object. Also, page 8 states that the user activity information can be used with user profile information.

And, Examiner notes that only the top of page 7, the bottom of page 8, and the top of page 10 describe a media object profile without user demographic information. Otherwise, the Applicant’s Specification describes using demographic information, using demographic group information, and using user profile information.

Hence, Examiner notes that while Applicant’s Specification describes as part of the Applicant’s invention the features the Applicant is excluding in the claims, there are not 35 USC 112 issues with the negative claim limitations added on 7/13/07. Examiner notes the relevance of MPEP 2173.05(i).

And, Examiner notes that Applicant’s features of “said media object profile not including any attribute of said users” and “wherein said content use information does not include any attribute of said users” are obvious in light of Gerace.

Examiner notes that MPEP 2173.05(i) states:

“If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (“[the] specification, having described the whole, necessarily described the part remaining.”). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984).

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And, when there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under §103.

If a person of ordinary skill in the art can implement a predictable variation, and would see the benefit of doing so, §103 likely bars its patentability. Moreover, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond that person's skill. *KSR Int'l Co. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007).

Also, KSR states that it is obvious to recite combination which only unite old elements with no change in their respective functions and which yield predictable results. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396.

Also, teaching of a preference does not constitute a teaching away from the proposed combination under review. See *In re Fulton*, 391 F.3d 1195, 1199-1200, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

And, MPEP 2144.04.II.A states that "Elimination of a step or an element and its function" is obvious.

Hence, Gerace discloses tracking "user activity" related to a media object (Gerace, Appendix IV, col 33, lines 33-61). Note that this citation from Gerace discloses tracking media

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object hits/viewings, click thrus, purchases, and other user activity related to the media object.

Note that Applicant's Specification page 4 states, "User activity information "may include information indicating that a piece of media is exercised (e.g., purchases, viewed, interacted with) by a user, and is captured when the user exercises the media." Also, Gerace further discloses tracking "user activity" related to a media object:

"(15) In accordance with another aspect of the present invention, there is a module (e.g., advertisement module) that records history of users viewing the advertisements. For each advertisement, the module records (i) number of times viewed by a user; (ii) number of times selected for further information by a user, and/or (iii) number of purchases initiated from display of the advertisement to a user" (col 2, lines 37-42).

Hence, Gerace discloses user activity related to the media object where the user activity information is related to "purchases, viewed, interacted with by a user" (Applicant's Specification page 4). And, Examiner notes that this user activity information that Gerace tracks is without any attribute of said users. Also, Examiner acknowledges that other parts of Gerace do additionally disclose media object profile information that do include user attribute information.

However, Examiner notes that MPEP 2173.05(i) states "the specification, having described the whole, necessarily described the part remaining." And, MPEP 2144.04.II.A discloses that it is obvious to eliminate a step or element.

Hence, Gerace disclose tracking user activity/content use related to a media object. And, Gerace discloses that the user activity/content use can be for the media object the "purchases, viewed, interacted with". And, it would be obvious to a person skilled in the art at the time of

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the Applicant's invention that Gerace does not need to include additional media object related information such as user attribute information.

Hence, Gerace renders obvious a media object profile of user activity/content use information with "said media object profile not including any attribute of said users" and "wherein said content use information does not include any attribute of said users".

Hence, the combination of the prior art renders obvious the features of the Applicant's claims.

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

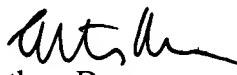
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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Arthur Duran
Primary Examiner
Art Unit 3622

7/24/2007